

SECRET

9-9/39

CSC/2-5026

0907-2022

DEC 2 1957

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Patent Secrecy Authority for CIA

This memorandum suggests action on the part of the DCI. Such requested action is contained in paragraph 4.

1. At the present time, the Agency has pending in the Patent Office four patent applications. They are the result of inventions arising out of the performance of contracts concerned with certain research and development work for the Technical Services Staff, DD/P. These applications have been classified "secret" and have been filed in accordance with the informal arrangements which this Office has established with a cleared contact in the Commissioner's Office. While these arrangements are serving the useful purpose of ensuring that the applications are processed within the Patent Office on a classified basis, they will not be adequate in the event the Commissioner should ultimately determine that a patent should be allowed. At that time, it will be necessary that the Agency remove its classification, so as to enable the patent to issue, or the Commissioner may determine that the application has been abandoned. This dilemma results from the fact that the Patent Office may not withhold a grant merely because an application is classified. Its authority to forestall the issuance of patents is restricted to those applications with respect to which it has issued secrecy orders. But, under present law, such orders may be issued only on behalf of certain specified agencies.

2. In accordance with the provisions of Section 161 of Chapter 17 of Title 35 of the United States Code, when notified by the chief officer of a defense agency that publication or disclosure of an invention by the grant of a patent would be detrimental to the national security, the Commissioner of Patents is required to issue an order that the invention be kept secret and to withhold the grant. Included within the term "defense agency" are the Atomic Energy Commission, the military departments of the Department of Defense, and such other department or agency as may be designated by the President. The Department of Justice was designated by

DOCUMENT NO. 63
 NO CHANGE IN CLASS. ☒
☐ DECLASSIFIED
 CLASS. CHANGED TO: TS
 NEXT REVIEW DATE: 2011
 AUTH: HR 100

OGC Has Reviewed

SECRET

Executive Order 10457, dated 27 May 1953. An order is directed to the patent applicant and his representatives and prohibits disclosure of any information regarding the invention under penalty of the application being determined abandoned or, in flagrant cases, criminal prosecution. Section 183 authorizes agencies to settle claims for damages sustained by an applicant resulting from the issuance of an order.

3. Agencies having secrecy order authority are authorized also to inspect patent applications containing subject matter the disclosure of which would be detrimental to the national security. The procedure is for the agencies to indicate their respective fields of interest, and for the Patent Office to advise them when applications related thereto are received. Thus, in addition to making it possible for the Agency to more adequately protect its present and future classified inventions, its being designated as a defense agency would also make available a new source of technological information.

4. Since the designation of defense agency, within the meaning of the patent laws, requires the issuance of a Presidential order, there is attached for your signature a letter to the Bureau of the Budget (Tab A), recommending such action on the part of the President, and attached thereto is a proposed Executive Order.

SIGNED

LAWRENCE R. MOUNTAIN
General Counsel

Attachment

CONCURRENCE:

Special Assistant to the
Director, for Planning

SIGNED

Director of Logistics

Director of Communications

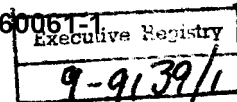
Chief, Technical Services Staff

OGC/RJB:pkb

Distribution: Orig. & 1 - Addressee 1 - DDCI 1 - OL
1 - INVENTIONS-2 ✓ 1 - ER 1 - Commo
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Approved For Release 2003/04/25 : CIA-RDP80R01731R000100160061-1

SECRET



The Honorable Percival Brundage
 Director, Bureau of the Budget
 17th Street and Pennsylvania Avenue, N.W.
 Washington, D. C.

Dear Mr. Brundage:

There is enclosed herewith a proposed Executive Order to designate the Central Intelligence Agency as a defense agency within the meaning of Chapter 17 of Title 35 of the United States Code.

Section 181 of Chapter 17 authorizes the Commissioner of Patents to issue orders keeping secret those inventions, disclosures regarding which would be detrimental to the national security. The statute limits the authority of the Commissioner in this regard to the extent that such orders may be issued only on behalf of the Atomic Energy Commission, the Secretary of a Defense Department, and such other agency or department as may be designated by the President.

In the fulfillment of its responsibilities in the field of foreign intelligence, the Agency is concerned with the research and development of items peculiar to its requirements. To the extent that patentable devices may result from its program, publicity resulting from the granting of patents would be detrimental to the national security. The purpose of the proposed Executive Order is to authorize the Commissioner to issue secrecy orders with respect to those inventions in which this Agency may be interested. It is my opinion that having the Central Intelligence Agency designated as a defense agency of the United States within the meaning of Chapter 17 of Title 35 of the United States Code would be in the national interest, and therefore I recommend that you bring this proposal to the attention of the President.

Sincerely,

Allen W. Dulles
 Director

Enclosure

OWC/RJB:ptb (20 Nov. 57)

Distribution: Orig. & 1 - Addressee

cc - DCI

cc - DDGI

✓ cc - ER

cc - SA/P/DCI

cc - Comptroller

cc - OL

cc - Commo

cc - TSS

cc - General Counsel

EXECUTIVE ORDER

WHEREAS, Chapter 17 of Title 35 of the United States Code provides in part that whenever the publication or disclosure of any invention by the granting of a patent therefor might be detrimental to the national security, the invention may be kept secret and the granting of a patent withheld under the conditions and to the extent set out therein;

WHEREAS, Section 181 of said Chapter 17 provides, among other things, that the President may designate any department or agency of the Government as a defense agency for the purpose of said Chapter;

AND, WHEREAS, it appears that it would be in the interest of the national security to make the designation hereinafter described:

NOW, THEREFORE, by virtue of the authority vested in me by the above-mentioned provision of law, I hereby designate the Central Intelligence Agency as a defense agency of the United States for the purpose of said Chapter 17 of Title 35 of the United States Code.

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Executive Registry

9-9/39

DEC 3 1957

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT : Patent Secrecy Authority for CIA

This memorandum suggests action on the part of the DCI. Such requested action is contained in paragraph 4.

1. At the present time, the Agency has pending in the Patent Office four patent applications. They are the result of inventions arising out of the performance of contracts concerned with certain research and development work for the Technical Services Staff, DD/P. These applications have been classified "secret" and have been filed in accordance with the informal arrangements which this Office has established with a cleared contact in the Commissioner's Office. While these arrangements are serving the useful purpose of ensuring that the applications are processed within the Patent Office on a classified basis, they will not be adequate in the event the Commissioner should ultimately determine that a patent should be allowed. At that time, it will be necessary that the Agency remove its classification, so as to enable the patent to issue, or the Commissioner may determine that the application has been abandoned. This dilemma results from the fact that the Patent Office may not withhold a grant merely because an application is classified. Its authority to forestall the issuance of patents is restricted to those applications with respect to which it has issued secrecy orders. But, under present law, such orders may be issued only on behalf of certain specified agencies.

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4. Since the designation of defense agency, within the meaning of the patent laws, requires the issuance of a Presidential order, there is attached for your signature a letter to the Bureau of the Budget (Tab A), recommending such action on the part of the President, and attached thereto is a proposed Executive Order.

25X
[Redacted Signature]
LAWRENCE R. HOUSTON
General Counsel

Attachment

CONCURRENCE:

25X1 [Redacted]
Special Assistant to the /
Director, for Planning

5X1 [Redacted]
Acting Director of Logistics

5X1 [Redacted]
Director of Communications

5X1 [Redacted]
Chief, Technical Services Staff

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MEMORANDUM FOR: THE DIRECTOR

The attached memorandum recommends that we request an executive order designating CIA as a defense agency for the purpose of obtaining secrecy orders on patents which this Agency determines should not be published. In the past, arrangements with other "defense agencies" have sufficed, but an increased number of sensitive developments by this Agency make it desirable that CIA be authorized to take direct action.

Recommend signature of the attached letter to the Bureau of the Budget for this

[Redacted Signature]

December 1957
(DATE)

LAWRENCE P. ROBERTSON
General Counsel

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DDCI

(47)

FORM NO. 101 REPLACES FORM 10-101
1 AUG 54 WHICH MAY BE USED.

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Please advise General Counsel, 712, when
letter has been dispatched.

12/4/57

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ROUTING AND RECORD SHEET

INSTRUCTIONS: Officer designations should be used in the "TO" column. Under each comment a line should be drawn across sheet and each comment numbered to correspond with the number in the "TO" column. Each officer should initial (check mark insufficient) before further routing. This Routing and Record Sheet should be returned to Registry.

FROM:

General Counsel
225 East

TELEPHONE

NO.

OGC 7-2022

OGC/B-8026

DATE

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TO

ROOM
NO.

DATE

REC'D

FWD'D

OFFICER'S
INITIALS

TELEPHONE

COMMENTS

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SA/P/DCI

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CONCURRENCE

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REPLACES FORM 51-10
WHICH MAY BE USED

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SENDER WILL CHECK CLASSIFICATION TOP AND BOTTOM			
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CENTRAL INTELLIGENCE AGENCY OFFICIAL ROUTING SLIP			
TO	NAME AND ADDRESS	INITIALS	DATE
1	Executive Registry 237 Admin. Bldg.		
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ACTION		DIRECT REPLY	PREPARE REPLY
APPROVAL		DISPATCH	RECOMMENDATION
COMMENT		FILE	RETURN
CONCURRENCE		INFORMATION	SIGNATURE

Remarks:

Your copy.

DCI by direct
DCI by routing

FOLD HERE TO RETURN TO SENDER

FROM: NAME, ADDRESS AND PHONE NO.		DATE
General Counsel 225 East		